

# REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 24 - 47 are pending in the application. Currently, claims 24 - 33, 35 - 37, 41 - 44 and 47 stand rejected; and claims 34, 38 - 40, 45, and 46 stand objected to.

By the present amendment, claims 24, 32, 35, and 37 - 39 have been amended; and claim 36 has been cancelled without prejudice.

In the office action mailed November 25, 2010, claims 24 - 33, 35 - 37, 41 - 44, and 47 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,627,346 to Weibel et al.

The foregoing rejection is traversed by the instant response.

As amended herein, claim 24 is directed to a method for continuously drawing and mixing liquid samples originating from at least n different containers where n is greater than or equal to 2, said method comprising the steps of: drawing a given volume of n samples originating from n different containers of liquids; placing each of the samples drawn respectively in an intermediate sampling chamber; and transferring by gravity identical volumes of each sample drawn into a sealed common mixing container and obtaining, after mixing of volumes transferred into the common mixing container, a mixture sample

to be analysed. Support for the amendments to claim 24 can be found in paragraph 0059, 0060 and claim 40 of the specification.

As amended herein, claim 32 also includes the step of transferring by gravity identical volumes of each sample drawn into a sealed common mixing container and obtaining a mixture sample to be analysed.

As amended herein claim 35 is directed to device for drawing and mixing samples of liquids originating from at least two different containers, said device comprising a sealed mixing chamber connected to each of said containers, at least one intermediate sampling chamber between each said container and the mixing chamber, said at least one intermediate sampling chamber being connected so as to transfer to said mixing chamber at least part of the sampled liquid, said device being configured in a vertical arrangement, and the mixing chamber being disposed under said at least one intermediate sampling chamber and connected to said at least one intermediate sampling chamber so that the samples of liquid contained in the at least one intermediate sampling chamber flow by gravity into the mixing chamber.

With regard to the obviousness rejection of independent claim 24, a review of the Weiber et al. reference shows that it does not say anything about mixing liquids. Clearly, Weiber et al. does not disclose or suggest the step of transferring volumes of each sample respectively placed in an intermediate sampling chamber into a sealed common mixing container. Referring now to col. 5, lines 25 to 30, of Weiber et al., it is stated "[t]he weight amounts which are predetermined by a control unit 7 are directed simultaneously by the two different flow regulators 6 into a pre-mixing space 8 and directly into a

homogenizer 9 and conveyed for further processing ...” The pre-mixing space 8 is open because the raw material is transferred directly from some intermediate sample chamber (metering weigher 4) to the homogenizer 9. Thus, the pre-mixing space 8 is not a space allowing one to mix the raw materials and contain the raw materials. The pre-mixing space 8 does not form a sealed container. If it did, one could not transfer the raw material. Thus, the Examiner misapprehends the reference when the Examiner says that the pre-mixing space 8 corresponds to the common mixing container of claim 24. It does not. Further, there is nothing in Weiber et al. which teaches transferring by gravity identical volumes of each sample drawn into a common mixing container for obtaining, after mixing of volumes transferred into the common mixing container, a mixture sample to be analyzed.

With regard to the Examiner’s comments about Weibel’s device being inherently capable of mixing a liquid, the fact remains that Weibel does not mix a liquid. Further, there is nothing in Weibel which teaches or suggests mixing a liquid. Obviousness must flow from the teachings of the prior art, not from hypothetical situations which are not mentioned in the reference.

For these reasons, the rejection of claim 24 on obviousness grounds is erroneous and should be withdrawn.

Independent claims 32 and 35 are allowable because Weibel, as discussed above, does not teach or suggest using a sealed mixing container.

Claims 25 - 31, 33, 36, 37, 41 - 44, and 47 are allowable for the same reasons as their respective parent claim as well as on their own accord.

The instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, the Examiner is hereby invited to contact Applicant's attorney at the telephone number listed below.

A request for a three month extension of time and a notice of appeal are enclosed herewith. The Director is hereby authorized to charge the extension of time fee in the amount \$555.00 and the notice of appeal fee in the amount of \$270.00 to Deposit Account No. 02-0184.

Should the Director determine that an additional fee is due, he is hereby authorized to charge said fee to said Deposit Account No. 02-0184.

Respectfully submitted,

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